IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.118 of 2004

DATE OF DECISION:16.04.2007

Municipal Corporation, Bathinda .....Appellant

Versus

Parmeshwari Devi .....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri A.K. Khunger, Advocate
for the appellant.

None for the respondent.

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This is a defendant's regular second appeal. The suit of the plaintiff for permanent injunction restraining the appellant-Municipal Corporation, Bathinda from recovering an amount of Rs, 16,893/- as house tax and interest has been decreed by both the courts below after coming to the conclusion that the appellant-Council is not entitled to recover the house tax and interest for three years immediately preceding notice Ex. P2 dated 3.7.2002 issued to the plaintiff.

In this case, initially the house was in the name of husband of the plaintiff. He died in the year 1984 and thereafter in the year 2002 the house was transferred in the name of the plaintiff, who was the widow of the owner Mool Chand. After transfer, notice of recovery of house tax from the period 1984 was issued. Both the courts below while relying upon the Division Bench Judgement of this Court in **Municipal Committee, Bhatinda** Vs. **Jaswant Rai & Ors.** 1990 (2) PLR 402 have held that the appellant-council is not entitled to recover the house tax pertaining to three years immediately preceding notice Ex. P2 dated 3.7.2002 and prior to that

the alleged recovery is barred by limitation. Both the courts below on the admission of the appellant have held that prior to issuance of notice Ex. P2 dated 3.7.2002 no notice was ever served upon the plaintiff for payment of the house tax being legal heirs of deceased Mool Chand. Counsel for the appellant could not cite any judgement contrary to the aforesaid judgement.

After hearing the counsel for the appellant, I do not find any ground to interfere in the impugned judgements and decrees passed by the both the Courts below. No substantial question of law is also involved in this appeal.

Dismissed.

April 16, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**